

Appendix F

FY 2019 State OSHA Annual Report (SOAR)

**STATE OF VERMONT
STATE OSHA ANNUAL REPORT
(SOAR)**

October 1, 2018 through September 30, 2019



Prepared By:

**State of Vermont
Department of Labor
Division of Workers' Compensation and Safety
VOSHA**

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I. Executive Summary:

The Vermont Occupational Safety and Health Administration (VOSHA) submits this State OSHA Annual Report (SOAR) to the Federal Occupational Safety and Health Administration (OSHA) for evaluation of the Vermont State Plan. The SOAR covers the time period of October 1, 2018 through September 30, 2019.

VOSHA, and Project WorkSAFE, the state's OSHA consultation program, are administered by the Vermont Department of Labor, Division of Worker's Compensation and Safety.

In FY 2019, VOSHA continued to grapple with budgetary difficulties. However, the staffing situation was fairly stable. As anticipated, the longtime VOSHA Compliance Supervisor retired in the third quarter of FY 2019. VOSHA promoted from within and hired the workplace retaliation investigator to fill this position. In the fourth quarter of FY 2019, VOSHA filled the vacant workplace retaliation investigator's position. Thus, by the start of FY 2020, VOSHA was at the expected staffing level.

However, VOSHA continues to operate with one less health compliance safety and health officer (CSHO) than it had on board at the beginning of FY 2017. Prior to FY 2017—when a series of staff turnovers began—VOSHA typically operated with nine field staff, which included eight CSHOs and one workplace retaliation investigator. Currently, VOSHA is operating with only eight field staff (one workplace retaliation investigator and seven CSHOs). In addition, the VOSHA Program Manager conducts most of the duties of the compliance assistance specialist (CAS), and has done so since the time he was promoted from the CAS position to the manager's position, which was about seven years ago. Compliance staff also handle a small portion of the compliance assistance duties.

The relative stability in staffing in FY 2019 was welcome and, even though we were compelled to have staff away at more training, the State Plan was still able to maintain its priorities in terms of investigating complaints, severe incidents, and referrals. In all VOSHA exceeded its performance objectives. Since FY 2019 was the second year in a row that VOSHA exceeded its performance goals, the State Plan planned to conduct 25 more inspections in FY 2020 than were projected in FY 2019. The following table reflects the current VOSHA staffing pattern. It should also be noted that the table below does not reflect that the VOSHA Program Manager performs the function of the compliance assistance specialist (CAS), conducting training and outreach throughout the state.

- The following is VOSHA's staffing after the start of FY 2020:
 - Director of Workers Compensation and Safety: 1
 - VOSHA Program Manager: 1
 - VOSHA Compliance Supervisor: 1
 - VOSHA Program Technician II (formerly Administrative Assistant): 1
 - VOSHA Safety Compliance Officers: 4
 - VOSHA Health Compliance Officers: 2
 - VOSHA Health/Safety Compliance Officer: 1
 - VOSHA 11(c) Whistleblower Investigator: 1
 - Total; 11 *NOTE: The Director of Workers Compensation and Safety is not a dedicated VOSHA FTE

The consultation and enforcement programs continue to operate with no structural changes. Although the consultation and enforcement programs do not share personnel and maintain separate officers in different locations, the two programs share common goals to ensure workplace safety and health in the State of Vermont. Therefore, the VOSHA and Project WorkSAFE managers continue to work closely together to develop strategies for achieving these goals.

VOSHA continues to ensure that training is provided to CSHOs from both the OSHA Training Institute (OTI) as well as other training sources. Below is a list of the training that was completed in FY 2019 by the staff who are currently on board. The staff person listed as Safety Compliance Supervisor was the whistleblower investigator for part of the year. In addition, while the two Safety Compliance Officers listed below have not completed their basic training, they remain on track to do so.

- Safety Compliance Officer;
 - Course 1000 – Initial Compliance
 - Course 1410 – Inspection Techniques and Legal Aspects

- Safety Compliance Officer;
 - Course 1000 – Initial Compliance
 - Course 1410 – Inspection Techniques and Legal Aspects

- Safety Compliance Supervisor;
 - Course 1420 – Whistleblower Investigation Fundamentals
 - Course 9500 – Coaching CSHO's
 - Course 1410 – Inspection Techniques and Legal Aspects
 - Course 2720 – Whistleblower Complaint Resolution

- Industrial Hygiene/Safety Compliance Officer;
 - Course 1900 – Recordkeeping for Compliance Officers

- Senior Industrial Hygienist;
 - Course 1900 – Recordkeeping for Compliance Officers

VOSHA will continue to explore training opportunities for all staff in 2020 and will ensure that new hires take the training courses required by OSHA's Mandatory Training Program for Compliance Personnel (TED: 01-00-019).

Compliance Assistance Activities:

In FY 2019, VOSHA participated in an emergency drill with the Vermont Department of Emergency Management. While this drill—known as CAT4 (short for a Storm of Category 4 magnitude)—was actually conducted in early FY 2020, the bulk of the planning took place during FY 2019. This exercise enabled VOSHA to continue to test and modify its responsibilities in an actual statewide emergency. A significant development in which VOSHA was included was the creation and trial of the “Multi Agency Resource Center” or MARC. This initiative, which is headed by the Vermont Agency of Human Services, consists of a physical location, staffed with various agencies and non-profit organizations. The “staffing up” of a MARC is intended to be as close to an actual event as possible and is intended to be used by citizens affected by a catastrophic event will be able to get to and receive services that could be critical to their ability to cope with such an event.

VOSHA decided that it would engage in the safety aspect of constituents dealing with such an event. As a result we equipped a “go kit” with safety equipment to be given out, such as hearing protection, safety glasses, nitrile gloves, NIOSH N95 respirators (and the associated Appendix -D).

In addition, VOSHA outfitted a file box with pertinent OSHA FACT Sheets on such critical information as Disaster Cleanup and Recovery, Mold Cleanup During Disasters, Chain Saw Safety, and Generator Safety, VOSHA believes its role in this initiative could be very important in both affecting safety of those (workers and other) confronting clean-up in disaster situations but also to be able to extend services more directly to areas of impact.

In conducting post event review we found that taking part in the MARC model was an efficient way of getting VOSHA’s resources to areas where they were most needed. Another important advantage of this model is that the communication with fellow state and federal agencies as well as other stakeholders was direct and timely since they are already there. It should be noted that this does not replace VOSHA’s traditional responsibilities in the Emergency Operations Center, it only enhances it.

In addition to the above discussed CAT4 statewide emergency drill, VOSHA remained committed to three key state agency committees in which it serves as a legislatively appointed entity or representative of the Vermont Department of Labor.

- 1) State Emergency Response Committee (SERC): This is a statewide committee that meets bi-monthly at the State Emergency Operations Center (SEOC) in Waterbury. This bi-monthly meeting encompasses the Vermont Department of Public Safety and Homeland Security, VOSHA, Agency of Natural Resources, Vermont Department of Agriculture and Health, among others, and the various Local Emergency Planning Commissions (LEPCs) from around the state. This meeting is usually attended by the VOSHA Manager
- 2) State Elevator Board: This committee consists of the Vermont Department of Public Safety, Fire Prevention Division, various elevator inspection and regulatory entities as well as VOSHA. These monthly meetings are usually attended by the VOSHA Compliance Supervisor
- 3) Vermont Fire Service Training Counsel: This committee, which meets quarterly, concentrates on fire service training for volunteers as well as professional fire fighters. The meetings usually include the Director of Fire Service Training, The Vermont Agency of Natural Resources, VOSHA and representatives of local volunteer and professional fire services.

Participation in the above committees is important as it fulfills VOSHA’s role in statewide safety and health as compelled by the State Legislature.

VOSHA still maintains two active Alliances with the following entities:

- Vermont Safety and Health Council
- Vermont Rural Water Association

The GMVPP is still the only formal partnership program that VOSHA recognizes. Therefore, VOSHA places a high value on maintaining the integrity of this program. The VOSHA Program Manager continues to manage this program with the help of a CSHO, who serves as coordinator. In FY 2019, VOSHA anticipated receiving one new mobile worksite application from a construction company. However, during the application process, environmental issues developed and temporarily caused a stoppage in work at the construction site. For this reason VOSHA decided that the application should be submitted in FY 2020 during the next construction season. VOSHA currently has seven GMVPP sites, all of which are related to work in general industry.

There is a possibility that a long time GMVPP partner will be closing their VT operations in the next few years. While we have not had conversations with the management team yet, they could discontinue participation at any time.

Outreaches: In FY 2019 VOSHA conducted 80 outreaches. The VOSHA Manager carried out 68 outreaches, the Compliance Supervisor conducted 3 outreaches and the Safety and Health Compliance Officer was responsible for 9 outreaches. Many of the outreaches conducted by the VOSHA Manager were in the form of conference calls dealing with planning of the CAT4 statewide emergency drill. There were seven of these conference calls in the course of FY 2019.

VOSHA estimates that in FY 2019 there was total of 2,719 attendees and affected employees in formal outreaches. While this number is slightly lower than in FY 2018, it does not include GMVPP site visits that were counted in the FY 2018 SOAR.

For additional compliance assistance specialist (CAS) activities, VOSHA uses the services of the Project WorkSAFE administrative assistant for disseminating information to stakeholders, organizing training and outreach materials, and organizing information on the VOSHA website. VOSHA accounts for this staff member's time conducting CAS activities at a .1 full-time equivalent (FTE).

In FY 2014 VOSHA submitted a five-year strategic plan. FY 2019 reflects the fifth and final year of performance in that plan. VOSHA submitted a new five-year strategic plan in 2019 with the FY 2020 grant application.

New Equipment

After significant capital investment in safety and industrial hygiene sampling equipment in previous fiscal years, VOSHA concentrated its efforts on maintaining the equipment we have and planning for future purchases, including trying out the next generation of dash cameras for use by the CSHOs.

Rulemaking

In FY 2019, VOSHA initiated rulemaking for two rules. VOSHA is expected to complete adoption of both of those rules in FY 2020.

Rules not currently adopted but expected to be completed in FY 2020, are as follows:

- Final Rule on Crane Operator Certification Requirements 29 CFR Part 1926 (Adoption due date: 5/9/2019; VOSHA anticipates adoption by 1/1/2020). NOTE: Due to changes mandated by the Vermont Secretary of State for filing administrative rules, VOSHA needed to resubmit the forms used to file this rule. While VOSHA was aware that these changes were coming, we thought that we would be able to advance our rule with the previously filed forms. This was not the case and VOSHA needed to refile. As a result of that refiling, the adoption was delayed.
- Final Rule on the Tracking of Workplace Injuries and Illnesses 29 CFR Part 1904 (Adoption due date: 2/1/2020). VOSHA anticipates meeting this due date.

Staffing

VOSHA promoted the workplace retaliation investigator to the compliance supervisor's position around the end of the third quarter. VOSHA subsequently recruited and hired a new workplace retaliation investigator. Other than these personnel changes, the staffing situation at VOSHA was stable in FY 2019.

VOSHA is seeking overmatch funding from the Vermont State Legislature to reinstate the Compliance Assistance Specialist (CAS) position. This would allow a more concentrated effort in this area and free up the VOSHA Manager to focus on management issues within the department.

Inspections

VOSHA conducted 305 inspections in FY 2019. Of this total, 230 were classified as safety and 75 were classified as health. VOSHA conducted 28 inspections in state and local government, and 124 inspections in construction. Of a total of 426 violations issued in FY 2019, 283 were classified as serious and 143 were classified as other than serious.

VOSHA continues to find value in the requirement that employers mandatorily report injuries that require hospitalization of one or more employees, amputations, loss of an eye. We find that these incidents help to more directly focus our resources in problematic areas.

	Projected FY 2019			Actual FY2019		
	Safety	Health	Total	Safety	Health	Total
TOTAL INSPECTIONS	208	42	250	232	76	308
Private Sector	196	33	229	209	71	280
Public Sector	12	9	21	23	5	28
TOTAL CONSTRUCTION INSPECTIONS	140	15	155	115	20	135
Commercial Construction	25	5	30	28	0	28
Highway, Street, Bridge and Work Zones	25		25	11	0	11
Roofing	25		25	16	0	16
Residential Construction	30		30	31	0	31
Noise/Silica/Chrome VI/lead		10	10	0	20	20
Trenching/Excavation	25		25	16	0	16
Cranes/Powered Industrial Trucks	10		10	13	0	13
TOTAL NON-CONSTRUCTION INSPECTIONS	73	22	95	117	56	173
Food Processing	2	3	10 5	7	3	10

Lumber and Wood Products	5	2	7					
Amputations	23		23			30	5	35
Inspections at worksites mandatorily reporting injury/illness incidents	20	5	25			32	2	34
Combustible Dust		1	1			0	2	2
PSM								
PIT	10		10			18	3	21
Public Sector	12	9	21			23	5	28
Granite/Concrete	1	1	2			2	2	4
Nursing Homes		1	1			1	0	1

***NOTE:** VOSHA conducted a total of 38 inspections not coded in the above emphasis areas.

I. Summary of Annual Performance Plan Results

FY 2019 was the final year of VOSHA's Strategic Plan. As a function of the FY 2020 Grant Application, VOSHA has submitted and received approval for a new five-year Strategic Plan. In the tables below, VOSHA compares Calendar Year (CY) 2018 Total Reportable Case (TRC) Rate to CY 2012 baseline TRC rates.

STRATEGIC GOAL #1: Insure Workplaces are Safe and Healthy		
GOAL	FY 2019 Strategic Plan Outcome/Number of Inspections Conducted	COMMENT
Compliance Inspection Activities (Construction)		
Performance Goal 1.1—By the end of 2019 reduce the rate of workplace injuries and illnesses in construction by 15%, from 7.9 as recorded in baseline year 2012, to 6.7 by year FY 2019.	VOSHA achieved its strategic goal of a 15% reduction in the TRC rate for VT. The ending TRC rate was 5.1 for CY 2018, which represents a reduction of 35% from the 2012 baseline rate of 7	The strategic plan goal was met (exceeded).
Conduct 60 residential and commercial building inspections	59 safety inspections	The annual performance plan goal was not met.

Conduct 25 highway, street and bridge construction and work zone inspections	11 safety inspections	The annual performance plan goal was not met.
Conduct 25 roofing inspections	16 safety inspections	The annual performance plan goal was not met.
Conduct 30 inspections at worksites in Residential Construction	31 safety inspections	The annual performance plan goal was met (exceeded).
Conduct 10 inspections for health related exposures in construction including Noise/Silica/Chromium VI/Lead	21 inspections (one safety and 20 health)	The annual performance plan goal was met (exceeded).

STRATEGIC GOAL #1: Insure Workplaces are Safe and Healthy CONTINUED		
GOAL	FY2019 OUTCOME	COMMENT
Compliance Inspection Activities (General Industry)		
Performance Goal 1.2—By the end of FY 2019, reduce the rate of workplace injuries and illnesses in general industry by 15%, from 6.4 as recorded in baseline year 2012, to 5.4 by year 2019	The CY 2012 TRC rate of 6.4 decreased to 5.1 in CY 2018, which represents a reduction of 19%.	The strategic plan goal was met (exceeded).
Conduct 5 food processing inspections	10 inspections (seven safety and three health)	The annual performance plan goal was met (exceeded).
Conduct 7 lumber and wood products	No inspections were conducted	The annual performance plan goal was not met.

manufacturing inspections		
Conduct 20 inspections where there are amputation hazards	35 inspections (30 safety and 5 health)	The annual performance plan goal was met (exceeded).
Conduct 2 inspections in the granite and concrete industry	Four inspections (two safety and two health)	The annual performance plan goal was met (exceeded).
Conduct 25 inspections establishments in targeted NAIC's/SIC's	34 inspections (32 safety and two health)	The annual performance plan goal was met (exceeded).
Conduct 21 Inspections of public sector worksites	28 inspections (23 safety and five health)	The annual performance plan goal was met (exceeded).
Conduct 10 inspections in workplaces where Powered Industrial Trucks (PIT's) are in use	21 inspections (18 safety and three health)	The annual performance plan goal was met (exceeded).
Conduct 1 inspections of Nursing Homes	One inspection	The annual performance plan goal was met.
Conduct 1 inspections in workplaces with combustible dust hazards.	Two health inspections	The annual performance plan goal was met (exceeded).
Strategic Goal #2: Improve Workplace Safety and Health through compliance Assistance, Alliances and Partnerships		
Goal	FY 2019 Outcome	Comment
Performance Goal 2.1- Maintain recognition of excellence in safety and health management through the Green Mountain VPP	VOSHA continued to support the current GMVPP sites by conducting meetings with prospective sites, reviewing annual reports and conducting onsite visits. While VOSHA planned to conduct a GMVPP initial onsite visit	The annual performance plan goal was partially met.

	<p>in FY 2019, the visit had to be postponed (due to reasons other than safety or health related) and the State Plan decided to conduct the visit in FY 2020. However, in FY 2019, VOSHA maintained the eight VPP sites that were active in FY 2018.</p>	
<p>Performance Goal 2.2- Maintain relationships with organizations that cover targeted, high hazard areas, through the VOSHA Alliance Program</p>	<p>VOSHA continued to service two active Alliances. These Alliances were with 1) Vermont Rural Water Association and 2) Vermont Safety and Health Council. VOSHA continues an active and rewarding relationship with these two organizations, including a number of outreaches. On December 12, 2018, VOSHA renewed the Alliance with the Vermont Rural Water Association. After a few years with only two Alliances, VOSHA is entering conversations with another stakeholder organization to explore the possibility of another Alliance. We expect a decision in FY 2020.</p>	<p>The annual performance plan goal was met.</p>
<p>Performance Goal 2.3- Maintain a reduced schedule of service to Participants in VOSHA's outreach and training programs</p>	<p>In FY 2019 VOSHA conducted 80 outreaches involved approximately 2,719 employees/stakeholders. This total exceeded the FY 2019 goal of 700 outreach participants and represents approximately 100% of the outreach achieved when VOSHA</p>	<p>The annual performance plan goal was met.</p>

	employed a full time CAS. Note: The number of outreaches includes several conference calls for the purpose of planning and preparing for the CAT4 event. This factor was at play in the increase of outreach events reflected in FY 2019.	
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Green Mountain Voluntary Protection Program

Company	Status	Last Approval Date	New Renewal Date	Original Approval Date
GMVPP site 1	STAR	04/28/2017	10/31/2022	10/22/2007
GMVPP site 2	STAR	4/18/2017	10/10/2022	8/22/2007
GMVPP site 3	STAR	1/22/2015	01/22/2020	5/16/2006
GMVPP site 4	STAR	4/30/2018	4/30/2023	7/14/2008
GMVPP site 5	STAR	05/03/2017	05/03/2022	12/27/2013
GMVPP site 6	STAR	12/14/2017	9/11/2020	9/11/2017
GMVPP site 7	STAR	10/08/2018	10/08/2021	10/08/2018

Alliances

Company or organization	Status	Date signed
Alliance partner 1	Active	12/12/2018
Alliance partner 2	Active	06/29/2015

II. Progress Toward Strategic Plan Accomplishments

Vermont's BLS TRC rates for the period 2015 – 2019 have been reduced for all NAICS divisions as follows:

Year	All	Private sector	Manufacturing	Construction	State and Local Government
2012 (baseline)	5.1	5.0	6.4	7.9	5.6
2015	5.1	5.0	6.0	5.9	5.3
2016	4.6	4.6	5.4	5.9	5.0
2017	4.7	4.6	5.1	4.2	4.8
2018	4.5	4.6	4.8	4.6	5.3
2019	4.7	4.7	5.2	5.1	5.5
Percent reduction from baseline year 2012					
	-8%	-6%	-19%	-35%	-2%

The stability in the compliance staff enabled staff to become more comfortable with their responsibilities and each other. It showed in the increase in inspection numbers. As a result VOSHA proposed a slight increase in the inspection numbers in FY 2020 as we believe there will be continued improvement in the abilities of the staff.

With that said, VOSHA still faces serious funding shortfalls and has reached out to both the current VT State administration and Legislature for permission to overmatch the Federal Grant, which continues to lag with no consequential increases for many years and the minimal increases that were awarded were quickly absorbed by corresponding increases in the states cost of operating the OSHA Information System (OIS).

The new workplace retaliation investigator was hired in the fourth quarter. Therefore, we are training this person and expect and anticipated her taking the basic training course for whistleblower investigators at OTI in February 2020. VOSHA's workplace retaliation program screened 55 complaints, docketed 11 new cases, and closed 48 cases. Ten of those closed cases were from FY 2018 but closed in FY 2019; three cases were settled, three were withdrawn, three were dismissed, and one case was found to have merit. VOSHA currently has 20 open cases.

III. Mandated Activities

In FY 2019, VOSHA worked diligently to improve a critical deficiency in SAMM 12, which was one of the very few areas in which VOSHA's performance was deficient. We have significantly improved this area (Penalty Retention) and it is now within the further review level.

IV. Special Measures of Effectiveness/Special Accomplishments

A notable accomplishment as previously mentioned in this report was VOSHA's "evolving role" in the State Emergency Response network. While we traditionally fill the role of State Emergency Operations Center (SEOC) Safety Officer, we also had a chance to take part in the MARC. As discussed earlier, VOSHA believes this model to be a valuable fit for the type of service we can provide. VOSHA believes the ability to operate within this framework will improve our ability to provide services in a potential statewide emergency. As was mentioned previously, the actual event happened at the very beginning of FY 2020, but the bulk of the planning leading up to the event happened in FY 2019.

V. Adjustments or Other Issues

In FY 2019, VOSHA worked diligently for improvement in two vital areas, 1) Penalty retention and 2) Abatement verification.

- 1) Penalty retention: In working to improve penalty retention, VOSHA addressed a key observation in the FY 2018 FAME report. VOSHA realizes that this observation will be rectified in the FY 2019 FAME. However, we also acknowledge that more work needs to be done in this area to ensure that our performance is more than just marginally acceptable.
- 2) Abatement Verification: VOSHA has been working to improve performance in this area. Efforts in improved tracking have also been augmented by efforts to be clearer and more direct on abatement expectations as noted in negotiated settlement agreements. We have learned through this process that regular tracking is only part of the equation. The other important part of the equation is to make sure that abatement expectations are clearly outlined including methods of abatement and timeframes for completion. VOSHA acknowledges that this is a "work in progress;" however we believe we are much better than we have been in the past.

VI. State Internal Evaluation Program (SIEP) Report:

In FY 2019, VOSHA received an onsite, comprehensive FAME audit. Because of the comprehensive nature of the audit, VOSHA will look to the results of the audit, then plan to conduct a SIEP report in FY 2020.